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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/302,080	04/28/1999	CHARLES C. BRACKETT	15-UL-4901	6445

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EXAMINER

POKRZYWA, JOSEPH R

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 08/19/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/302,080

Applicant(s)

BRACKETT ET AL.

Examiner

Joseph R. Pokrzywa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment was received on 6/13/03, and has been entered and made of record. Currently, **claims 29-42** are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. **Claims 29-33, 35-37, 39, 40, and 42** are rejected under 35 U.S.C. 102(e) as being anticipated by McDonald (U.S. Patent Number 5,920,317, cited in the Office action dated 2/11/03 under Pertinent Prior Art).

Regarding *claim 29*, McDonald discloses a scanner (capture station 22, see Fig. 1, column 3, line 66 through column 4, line 46) comprising an operator interface (see Fig. 5, column 9, line 61 through column 10, line 47), a display monitor (see Fig. 5, column 9, line 61 through column 10, line 47), a scanning subsystem for acquiring data representing an image of a target object (column 4, lines 1 through 35), a networking port for communicating with a network (column 3, line 55 through column 4, line 14), and a computer programmed (column 3, line 66 through column 4, line 56) to perform the steps of controlling the display monitor to display one or more screens having a plurality of fields that can be filled with respective worklist search parameters inputted using the operator interface (column 5, lines 1 through 20), formulating a worklist search request message as a function of the contents of the plurality of fields in response to input of a search command using the operator interface (column 5, lines 1 through 55), opening an association with a remote worklist broker (database server 24) via the network (column 5, lines 10 through 27, see Fig. 1), sending the worklist search request message to the remote worklist broker via the networking port while the association is open (column 5, lines 10 through 27), controlling the display monitor to display at least portions of the worklist search results received from the remote worklist broker in response to the sending step (column 5, lines 19 through 38), registering portions of the worklist search results belonging to a particular patient in response to input of a patient selection command using the operator interface after the controlling the display monitor step (column 5, lines 23 through 38), controlling the scanning subsystem to acquire an image in response to input of a scan command using the operator interface after the registering step (see Fig. 5, column 5, line 58 through column 7, line 45), and storing the acquired image in association with the registered portions of the worklist

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search results in response to input of a save command using the operator interface (column 2, lines 52 through 65, column 4, lines 47 through 56, column 5, lines 38 through 55, and column 14, lines 24 through 45).

Regarding **claim 30**, McDonald discloses the scanner discussed above in claim 29, and further teaches that the computer is further programmed to control the display monitor to display the acquired image (column 9, lines 61 through 65).

Regarding **claim 31**, McDonald discloses the scanner discussed above in claim 29, and further teaches that one of the screens further comprises fields that can be filled with worklist display format instructions inputted using the operator interface, the worklist display format instructions indicating what items in the worklist search results should be displayed on the display monitor in the step of controlling the display monitor (column 5, lines 1 through 55, column 9, line 61 through column 10, line 40, and column 11, line 10 through column 12, line 5).

Regarding **claim 32**, McDonald discloses the scanner discussed above in claim 31, and further teaches that the one screen further comprises fields that can be filled with worklist display order instructions inputted using the operator interface, the worklist display order instructions indicating the order in which the items should be displayed on the display monitor in the step of controlling the display monitor (column 5, lines 1 through 55, column 9, line 61 through column 10, line 40, and column 11, line 10 through column 12, line 5).

Regarding **claim 33**, McDonald discloses the scanner discussed above in claim 29, and further teaches that the registering step comprises automatically entering the portions of the worklist search results belonging to the particular patient menu into a new patient data file (column 5, lines 30 through 55).

Regarding *claim 35*, McDonald discloses the scanner discussed above in claim 29, and further teaches that the scanning subsystem comprises a multiplicity of ultrasound transducer elements (see Fig. 1, column 3, line 66 through column 4, line 46).

Regarding *claim 36*, McDonald discloses a system (see Fig. 1) comprising a network (column 3, line 55 through column 4, line 1), scanner connected to the network (column 3, line 66 through column 4, line 46), and a worklist broker connected to the network (database server 24), wherein the worklist broker comprises means for retrieving stored patient information from a database in response to a worklist search request message received via the network (column 5, lines 1 through 27), and wherein the scanner comprises an operator interface, a display monitor (see Fig. 5, column 9, line 61 through column 10, line 47), a scanning subsystem for acquiring data representing an image of a target object, a hard disk, and a computer programmed (column 3, line 55 through column 4, line 56) to perform the steps of controlling the display monitor to display one or more screens having a plurality of fields that can be filled with respective worklist search parameters inputted using the operator interface (column 5, lines 1 through 20), formulating a worklist search request message as a function of the contents of the plurality of fields in response to input of a search command using the operator interface (column 5, lines 1 through 55), opening an association with a remote worklist broker (database server 24) via the network (column 5, lines 10 through 27, see Fig. 1), sending the worklist search request message to the remote worklist broker via the network while the association is open (column 5, lines 10 through 27), controlling the display monitor to display at least portions of the worklist search results received from the remote worklist broker in response to the sending step (column 5, lines 19 through 38), registering portions of the worklist search results belonging to a particular

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patient in response to input of a patient selection command via the operator interface after the controlling the display monitor step (column 5, lines 23 through 38), controlling the scanning subsystem to acquire an image in response to input of a scan command via the operator interface after the registering step (see Fig. 5, column 5, line 58 through column 7, line 45), and storing the acquired image on the hard disk in association with the registered portions of the worklist search results in response to input of a save command via the operator interface (column 2, lines 52 through 65, column 4, lines 47 through 56, column 5, lines 38 through 55, and column 14, lines 24 through 45).

Regarding *claim 37*, McDonald discloses the system discussed above in claim 36, and further teaches of a storage device connected to the network (see Fig. 1), wherein the computer is further programmed to perform the steps of opening an association with the storage device via the network, and sending a file comprising the acquired image and the associated portions of the worklist search results to the storage device via the network in response to input of a store command via the operator interface while the association is open (column 8, line 46 through column 9, line 35).

Regarding *claim 39*, McDonald discloses the system discussed above in claim 36, and further teaches that the scanning subsystem comprises a multiplicity of ultrasound transducer elements (see Fig. 1, column 3, line 66 through column 4, line 46).

Regarding *claim 40*, McDonald discloses a scanner (capture station 22, see Fig. 1, column 3, line 66 through column 4, line 46) comprising a scanning subsystem for acquiring data representing an image of a target object (column 4, lines 1 through 35), a networking port for communicating with a network (column 3, line 55 through column 4, line 14), a hard disk

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(column 4, lines 1 through 6), a graphical user interface comprising at least one screen for enabling a system operator to define the parameters of a worklist search request to be transmitted from the scanner via the networking port (steps 40 and 42 in Fig. 2, column 5, lines 1 through 19) and then select a patient from a worklist displayed when worklist search results are received by the scanner via the networking port (steps 42-48 in Fig. 2, column 5, lines 12 through 43), and a worklist manager that automatically attaches the worklist search results for the selected patient to each acquired image to be saved on the hard disk (steps 56 and 58 in Fig. 2, column 2, lines 52 through 65, column 4, lines 47 through 56, column 5, lines 38 through 55, and column 14, lines 24 through 45).

Regarding *claim 42*, McDonald discloses the scanner discussed above in claim 40, and further teaches that the scanning subsystem comprises a multiplicity of ultrasound transducer elements (see Fig. 1, column 3, line 66 through column 4, line 46).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 34, 38, and 41** are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald (U.S. Patent Number 5,920,317, cited in the Office action dated 2/11/03 under Pertinent Prior Art) in view of Cooke, Jr. *et al.* (U.S. Patent Number 6,574,629).

Regarding **claims 34, 38 and 41**, McDonald discloses the scanners and system discussed above in claims 29, 37, and 40, but fails to particularly teach if the worklist search request message is formatted in accordance with DICOM protocol. Cooke discloses a system (see Fig. 1) comprising a network (column 6, lines 14 through 26), scanner connected to the network (column 15, lines 32 through 46), and a worklist broker connected to the network (PACS broker 46), wherein the worklist broker comprises means for retrieving stored patient information from a database in response to a worklist search request message received via the network (column 2, line 20 through column 3, line 64), and wherein the scanner comprises an operator interface, a display monitor (see Fig. 1, and column 8, lines 48 through 60), a scanning subsystem for acquiring data representing an image of a target object (column 1, line 27 through 38, and column 9, line 66 through column 10, line 11), a hard disk, and a computer programmed to perform the steps of controlling the display monitor to display one or more screens having a plurality of fields that can be filled with respective worklist search parameters inputted using the operator interface (column 7, lines 30 through 67, see Fig. 13), formulating a worklist search

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request message as a function of the contents of the plurality of fields in response to input of a search command using the operator interface (column 8, lines 1 through 25). Further, Cooke teaches that the worklist search request message, as well as the file for storage, are formatted in accordance with DICOM protocol (column 5, line 66 through column 6, line 64). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include Cooke's teachings in the system of McDonald. McDonald's system would easily be modified to include the teachings of Cooke, as the systems share cumulative features, being additive in nature, thereby conforming to well known industry standards for the exchange of medical images over a network, as recognized by Cooke.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (703) 305-0146. The examiner can normally be reached on Monday-Friday, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (703) 305-4712. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

J. R. P.

Joseph R. Pokrzywa
Examiner
Art Unit 2622

jrp
August 13, 2003

Edward L. Coles
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